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Enclosed herewith:

- Transmittal Document; and
- Appeal Brief.

Re: Application No. **10/004,925**
Attorney Docket No: **AUS920011013US1**

Date: Friday, November 18, 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gusler et al. §   Group Art Unit: 2143

§

Serial No.: 10/004,925 §   Examiner: Neurauter, George C.

§

Filed: December 5, 2001 §   Attorney Docket No.: AUS920011013US1

§

For: **Apparatus and Method for** §
Monitoring and Analyzing Instant
Messaging Account Transcripts

35525
PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

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| By:    Carrie Parker                                         |
|        Carrie Parker                                         |
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TRANSMITTAL DOCUMENT

Commissioner for Patents
P.O. Box 1450
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Sir:
ENCLOSED HEREWITH:

- Appeal Brief (37 C.F.R. 41.37)

A fee of $500.00 is required for filing an Appeal Brief. Please charge this fee to IBM
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Respectfully submitted,

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Docket No. AUS920011013US1   *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gusler et al.	§
	§ Group Art Unit: 2143
Serial No. 10/004,925	§
	§ Examiner: Neurauter, George C.
Filed: December 5, 2001	§
	§
For: Apparatus and Method for	§
Monitoring and Analyzing Instant	§
Messaging Account Transcripts	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on October 5, 2005.

The fees required under § 41.20(B)(2), and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

(Appeal Brief Page 1 of 30)
Gusler et al. – 10/004,925

REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: International Business Machines Corporation.

RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

(Appeal Brief Page 3 of 30)
Gusler et al. – 10/004,925

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-30

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims canceled: NONE
2. Claims withdrawn from consideration but not canceled: NONE
3. Claims pending: 1-30
4. Claims allowed: NONE
5. Claims rejected: 1-30
6. Claims objected to: NONE

C. CLAIMS ON APPEAL

The claims on appeal are: 1-30

STATUS OF AMENDMENTS

No amendments were made after the Final Office Action dated July 5, 2005.

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SUMMARY OF CLAIMED SUBJECT MATTER

A.   CLAIM 1 – INDEPENDENT

The subject matter of claim 1 is directed to a method of monitoring use of an instant messaging source user account (110, 414) (see *Specification*, page 3, lines 3-4 and page 29, lines 17-27). An instant message is received from a destination user (108, 412) (see *Specification*, page 11, lines 14-17). A registry that identifies a set of approved destination users is searched to determine if a transcript of the received instant message is desired (see *Specification*, page 11, lines 18-28 and page 13, line 31 through page 14, line 6). The transcript is not desired if the destination user is identified in the registry as being an approved destination user and the transcript is desired if the destination user is not identified in the registry as being an approved destination user (see *Specification*, page 11, lines 3-7 and page 14, lines 6-12). The transcript of the received instant message is stored in a storage device (106, 420, 440, 450) in response to determining that the transcript is desired (see *Specification*, page 12, lines 10-32; page 17, lines 28-31; and page 23, lines 17-31). The transcript is analyzed for occurrences of questionable content to thereby identify at least one portion of the transcript having questionable content (see *Specification*, page 14, line 13 through page 15, line 12 and page 25, lines 4-21). The at least one portion of the transcript is provided to a designated monitor (104, 112, 200, 300, 410, 430) of the instant messaging source user account (see *Specification*, page 13, lines 1-21; page 18, lines 3-14; and page 25, line 22 through page 26, line 13).

B.   CLAIM 11 – INDEPENDENT

The subject matter of claim 11 is directed to an apparatus of monitoring use of an instant messaging source user account (110, 414) (see *Specification*, page 3, lines 3-4 and page 29, lines 17-27). The apparatus provides a means for receiving an instant message from a destination user (108, 412) (see *Specification*, page 11, lines 14-17). The apparatus provides a means for searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired (see *Specification*, page 11, lines 18-28 and page 13,

line 31 through page 14, line 6). The transcript is not desired if the destination user is identified in the registry as being an approved destination user and the transcript is desired if the destination user is not identified in the registry as being an approved destination user (see *Specification*, page 11, lines 3-7 and page 14, lines 6-12). The apparatus provides a means for storing the transcript of the received instant message in a storage device (106, 420, 440, 450) in response to determining that the transcript is desired (see *Specification*, page 12, lines 10-32; page 17, lines 28-31; and page 23, lines 17-31). The apparatus provides a means for analyzing the transcript for occurrences of questionable content to thereby identify at least one portion of the transcript having questionable content (see *Specification*, page 14, line 13 through page 15, line 12 and page 25, lines 4-21). The apparatus provides a means for providing the at least one portion of the transcript to a designated monitor (104, 112, 200, 300, 410, 430) of the instant messaging source user account (see *Specification*, page 13, lines 1-21; page 18, lines 3-14; and page 25, line 22 through page 26, line 13).

C.   CLAIM 21 – INDEPENDENT

The subject matter of claim 21 is directed to a computer program product in a computer readable medium for monitoring use of an instant messaging source user account (110, 414) (see *Specification*, page 3, lines 3-4 and page 29, lines 17-27). The computer program product provides first instructions for receiving an instant message from a destination user (108, 412) (see *Specification*, page 11, lines 14-17). The computer program product provides second instructions for searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired (see *Specification*, page 11, lines 18-28 and page 13, line 31 through page 14, line 6). The transcript is not desired if the destination user is identified in the registry as being an approved destination user and the transcript is desired if the destination user is not identified in the registry as being an approved destination user (see *Specification*, page 11, lines 3-7 and page 14, lines 6-12). The computer program product provides third instructions for storing the transcript of the received instant message in a storage device (106, 420, 440, 450) in response to determining that the transcript is desired (see *Specification*, page 12, lines 10-32; page 17, lines 28-31; and page 23, lines 17-31). The computer program product provides fourth instructions for analyzing the transcript for

occurrences of questionable content to thereby identify at least one portion of the transcript having questionable content (see *Specification*, page 14, line 13 through page 15, line 12 and page 25, lines 4-21). The computer program product provides fifth instructions for providing the at least one portion of the transcript to a designated monitor (104, 112, 200, 300, 410, 430) of the instant messaging source user account (see *Specification*, page 13, lines 1-21; page 18, lines 3-14; and page 25, line 22 through page 26, line 13).

D.   CLAIM 2 – DEPENDENT

The subject matter of claim 2, which depends from claim 1, is directed to a method wherein the method is implemented in an instant messaging service provider (104, 410) of a distributed data processing system (100) (see *Specification*, page 11, lines 7-14; page 15, line 26 through page 16, line 6; and **Figure 4A**).

E.   CLAIM 5 – DEPENDENT

The subject matter of claim 5, which depends from claim 1, is directed to a method wherein providing the at least one portion of the transcript to a designated monitor includes transmitting the at least one portion of the transcript as an attachment to an electronic mail message (see *Specification*, page 29, lines 11-16).

F.   CLAIM 6 – DEPENDENT

The subject matter of claim 6, which depends from claim 1 through dependent claim 5, is directed to a method wherein the electronic mail message is transmitted in response to a request from the designated monitor (see *Specification*, page 18, lines 3-14 and page 25, line 22 through page 26, line 13).

G.   CLAIM 9 – DEPENDENT

The subject matter of claim 9, which depends from claim 1 through dependent claim 8, is directed to a method wherein the at least one instant messaging account characteristic includes at least one of a ranked list of user identifications for most frequent incoming instant messages, a

ranked list of user identifications for most frequent outbound target user identifications, a ranked list of most frequent recent incoming or outbound user identifications, a date/time distribution of instant messages that provides contact patterns for a particular user identification, and tracking of the contact patterns for the particular user identification (see *Specification*, page 24, line 1 through page 25, line 21).

H.   CLAIM 12 – DEPENDENT

The subject matter of claim 12, which depends from claim 11, is directed to an apparatus wherein the apparatus is part of an instant messaging service provider (104, 410) of a distributed data processing system (100) (see *Specification*, page 11, lines 7-14; page 15, line 26 through page 16, line 6; and **Figure 4A**).

I.   CLAIM 15 – DEPENDENT

The subject matter of claim 15, which depends from claim 11, is directed to an apparatus wherein the means for providing the at least one portion of the transcript to a designated monitor includes means for transmitting the at least one portion of the transcript as an attachment to an electronic mail message (see *Specification*, page 29, lines 11-16).

J.   CLAIM 16 – DEPENDENT

The subject matter of claim 16, which depends from claim 11 through dependent claim 15, is directed to an apparatus wherein the electronic mail message is transmitted in response to a request from the designated monitor (see *Specification*, page 18, lines 3-14 and page 25, line 22 through page 26, line 13).

K.   CLAIM 19 – DEPENDENT

The subject matter of claim 19, which depends from claim 11 through dependent claim 18, is directed to an apparatus wherein the at least one instant messaging account characteristic includes at least one of a ranked list of user identifications for most frequent incoming instant messages, a ranked list of user identifications for most frequent outbound target user

identifications, a ranked list of most frequent recent incoming or outbound user identifications, a date/time distribution of instant messages that provides contact patterns for a particular user identification, and tracking of the contact patterns for the particular user identification (see *Specification*, page 24, line 1 through page 25, line 21).

L.   CLAIM 22 – DEPENDENT

The subject matter of claim 22, which depends from claim 21, is directed to a computer program product wherein the computer program product is implemented in association with instructions of an instant messaging service provider (104, 410) of a distributed data processing system (100) (see *Specification*, page 11, lines 7-14; page 15, line 26 through page 16, line 6; and **Figure 4A**).

M.   CLAIM 25 – DEPENDENT

The subject matter of claim 25, which depends from claim 21, is directed to a computer program product wherein the instructions for providing the at least one portion of the transcript to a designated monitor include instructions for transmitting the at least one portion of the transcript as an attachment to an electronic mail message (see *Specification*, page 29, lines 11-16).

N.   CLAIM 26 – DEPENDENT

The subject matter of claim 26, which depends from claim 21 through dependent claim 25, is directed to a computer program product wherein the electronic mail message is transmitted in response to a request from the designated monitor (see *Specification*, page 18, lines 3-14 and page 25, line 22 through page 26, line 13).

O.   CLAIM 29 – DEPENDENT

The subject matter of claim 29, which depends from claim 21 through dependent claim 28, is directed to a computer program product wherein the at least one instant messaging account characteristic includes at least one of a ranked list of user identifications for most frequent incoming instant messages, a ranked list of user identifications for most frequent outbound target user identifications, a ranked list of most frequent recent incoming or outbound user

identifications, a date/time distribution of instant messages that provides contact patterns for a particular user identification, and tracking of the contact patterns for the particular user identification (see *Specification*, page 24, line 1 through page 25, line 21).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A.   GROUND OF REJECTION 1 (Claims 1, 7, 8, 11, 17, 18, 21, 27 and 28)

The Final Office Action rejects claims 1, 7, 8, 11, 17, 18, 21, 27 and 28 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Donahue*, U.S. Patent Application Publication Number 2002/0004907 A1.

B.   GROUND OF REJECTION 2 (Claims 2-6, 10, 12-16, 20, 22-26 and 30)

The Final Office Action rejects claims 2-6, 10, 12-16, 20, 22-26 and 30 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Donahue*, U.S. Patent Application Publication Number 2002/0004907 A1.

C.   GROUND OF REJECTION 3 (Claims 9, 19 and 29)

The Final Office Action rejects claims 9, 19 and 29 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Donahue*, U.S. Patent Application Publication Number 2002/0004907 A1, in view of *Fertell et al.*, U.S. Patent Application Publication Number 2002/0032770.

ARGUMENT

A. GROUND OF REJECTION 1 (Claims 1, 7, 8, 11, 17, 18, 21, 27 and 28)

The Final Office Action rejects claims 1, 7, 8, 11, 17, 18, 21, 27 and 28 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Donahue*, U.S. Patent Application Publication Number 2002/0004907 A1. This rejection is respectfully traversed.

A.1. Claims 1, 7, 8, 11, 17, 18, 21, 27 and 28

As to independent claims 1, 11 and 21, the Final Office Action states:

> Regarding claim 1, Donahue discloses a method of monitoring use of an instant messaging user account, comprising:
> receiving an instant message from a destination user (referred to within the reference as "chat session"; paragraph 0004);
> storing the transcript of the received instant message in a storage device in response to determining that the transcript is desired; (paragraph 0011);
> analyzing ("processing") the transcript for occurrences of questionable content to thereby identify at least one portion of the transcript having questionable content; (paragraphs 0015, 0016 and 0018) and
> providing the at least one portion of the transcript to a designated monitor of the instant messaging user account ("user"). (paragraph 0006, last sentence)
> Donahue does not expressly disclose searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired, wherein the transcript is not desired if the destination user is identified in the registry as being an approved destination user, and wherein the transcript is desired if the destination user is not identified in the registry as being an approved destination user, however, Donahue does disclose searching a registry that identifies text to determine if a transcript of the received instant message is desired, wherein the transcript is not desired if the text is identified in the registry as being an approved text, and wherein the transcript is desired if the destination user is not identified in the registry as being an approved text (paragraph 0017 and 0021). Donahue also contemplates wherein chat sessions are to be monitored with the present invention (paragraph 0004 and 0006). Donahue also discloses that any text may be used to determine if a transcript of the received instant message is desired (paragraph 0015 and 0016) and that the text may include a destination user's name or electronic address (paragraph 0023-0025, specifically "From: "John Doe" <johndoe@company-a.net>")
> It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Donahue to have a registry of destination users to determine if a transcript of the received instant message is

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desired since Donahue discloses that destination users are part of the text of a communication message (paragraph 0023-0025, specifically "From: "John Doe" <johndoe@company-a.net>") and discloses that instant messages are contemplated to be used with the invention (see above) Also, Donahue discloses that the determining can be accomplished by setting a threshold value of a regular expression which may include any text including a source user and a destination user and that when the threshold value met, a transcript is desired (paragraph 0021). Therefore, one of ordinary skill in the art would have found it obvious that by setting the initial threshold value to a high enough value to where any communication message is saved by basing the initial threshold value to the desired source user account name or electronic address which is stored within the registry and that when a destination user is identified, a negative threshold value (paragraph 0019) is used to bring the threshold value below the threshold so that the communication message is not saved. Therefore, it would have been obvious to achieve the limitations of the claim. ...

Claims 11, 17, and 18 are rejected since these claims recite an apparatus that contain substantially the same limitations as recited in claims 1, 7, and 8 respectively.

Claims 21, 27, and 28 are rejected since these claims recite a computer program product that contain substantially the same limitations as recited in claims 1, 7, and 8 respectively.

Final Office Action dated July 5, 2005, pages 4-8.

Claim 1, which is representative of the other rejected independent claims 11 and 21 with regard to similarly recited subject matter, reads as follows:

1.   A method of monitoring use of an instant messaging source user account, comprising:

receiving an instant message from a destination user;

searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired, wherein the transcript is not desired if the destination user is identified in the registry as being an approved destination user, and wherein the transcript is desired if the destination user is not identified in the registry as being an approved destination user;

storing the transcript of the received instant message in a storage device in response to determining that the transcript is desired;

analyzing the transcript for occurrences of questionable content to thereby identify at least one portion of the transcript having questionable content; and

providing the at least one portion of the transcript to a designated monitor of the instant messaging user account. (emphasis added)

Donahue does not teach or suggest "searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired, wherein the transcript is not desired if the destination user is identified in the registry as being an approved destination user, and wherein the transcript is desired if the destination user is not identified in the

registry as being an approved destination user," as recited in claims 1, 11, and 21.

Donahue is directed to a system for monitoring and maintaining an acceptable use policy for network communications. The communications are monitored, stored and searched for the presence of pre-selected regular expressions, either by subject category or by keywords. The regular expressions within the subject categories are assigned predetermined values, either negative or positive. If a communication contains regular expressions whose sum of weighted values exceeds a threshold value, the communication is stored for subsequent review by an authorized user of the system. If the communication contains keywords selected by the authorized user, the communication is also stored for subsequent review. See *Donahue*, abstract. *Donahue* does not teach or suggest "searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired, wherein the transcript is not desired if the destination user is identified in the registry as being an approved destination user, and wherein the transcript is desired if the destination user is not identified in the registry as being an approved destination user," as recited in claims 1, 11 and 21. To the contrary, *Donahue* teaches looking for specific text in a communication. If the specific text is found in specified categories, then values are retrieved and summed to determine if the communication is to be stored.

The Final Office Action refers to the following portions of *Donahue* in the rejection of independent claims 1, 11 and 21:

> [0004] Unfortunately, there are very few products available for use by managers to monitor network use by employees, whether the network is a local area network or a wide area network such as the Internet, and report on violations of corporate policy. Instead, rather than allow monitoring of network use, most products attempt to block access to web sites that are deemed non-business-related sites. However, such products are largely ineffective, regularly allowing access to non-business-related sites, as well as erroneously blocking access to legitimate business-related sites. Most of these products compile databases of web uniform resource locators (URLs) that are deemed inappropriate. There are many problems with this approach. First, it addresses only web access, ignoring email, chat sessions, and similar communications. Second, the Internet is growing too rapidly to maintain an effective database of inappropriate sites. As soon as a new database update is released, it is already hopelessly out of date. Third, the size of the database must be proportional to the size of the Internet. Given the Internet's rapid and unlimited growth, no database approach can scale well enough to use in the long term. Fourth, the selection of appropriate versus inappropriate URLs is made by the manufacturer of the product. This reduces the manager's ability to tailor the database to reflect individual corporate needs.

[0006] The present invention utilizes a method of weighted regular expressions to perform language analysis, categorize the monitored data and report deviations from a company's acceptable use policy. The present invention monitors all Transport Control Protocol/Internet Protocol (TCP/IP) network communications. It is not limited to just web or email monitoring. It stores any TCP/IP sessions that match the criteria selected by the user from either predefined categories or user defined keywords. The stored sessions can then be viewed, downloaded, and/or deleted by the user.

[0011] During monitoring and storing, the program listens to the Ethernet interface in promiscuous mode, storing each TCP/IP half-session to its own file or log on disk.

[0015] Each log, or independent portion of the log is then processed by the "categorize" subroutine which is illustrated in the flow diagram of FIG. 2. First, the data is stripped of any content which does not appear to contain language elements. The remainder, i.e., text containing language elements, is stored as a string of language elements separated by spaces. This allows the language elements or text to be effectively searched regardless of its original formatting. In example 1, addressed below, an email message is processed. Note that in email, quotation of prior email references are commonly preceded by numerous "greater than signs" (>), which are stripped in this step.

[0016] The text is then searched to determine whether it matches the current set of user-selected criteria. If so, the log is saved in a separate file system in one or more subdirectories based on which criteria were matched. Then the log is deleted.

[0018] This process is different from simple keyword matching in that many individual key phrases can be matched, without necessarily causing a match for the category. It also enables matching based on a sufficient amount of questionable language content, the constituent key phrases of which might be completely innocuous individually.

Donahue, paragraphs 4, 6, 11, 15, 16, and 18.

These portions of *Donahue* only teach analyzing the language of monitored data from TCP/IP network communications. Any monitored data that matches criteria selected by a user from either predefined categories or user-defined keywords is stored. The stored data can then be viewed, downloaded, and/or deleted by the user. To the contrary, claims 1, 11 and 21 recite searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired. A transcript is not desired if the destination user is identified in the registry as being an approved destination user. A transcript is desired if the destination user is not identified in the registry as being an approved destination user. *Donahue* does not teach or suggest this feature.

The Final Office Action additionally refers to the following portions of *Donahue* in the rejection of the searching step of independent claims 1, 11 and 21:

[0017] The criteria matching process is based on weighted key phrases or regular expressions. All key phrases take advantage of the "regular expressions" used in common Unix utilities such as egrep, sed, and perl. This enables the use of extremely flexible and powerful key phrases. Each category is assigned a numeric value. Each key phrase or regular expression within a category is also assigned a numeric value. When a log is examined, the sum of all values associated with each matching key phrase or regular expression is compared with the value for the category. If the sum meets or exceeds the category value, the file is considered a match for that category.

[0019] Within each category, a regular expression can be assigned a positive or negative value. Using negative values facilitates avoidance of "false hits", or undesired matches. For example, in the medical web site example noted above, a legitimate web site would not necessarily produce a match for pornography if medical terms were assigned negative values and included in the key phrases within the pornography category. As another example, often web-based news reports will contain language related to sports. Assume that a company wants to log sports-related activities, but doesn't want to log common news reports. This can be accomplished by assigning negative values to news-related key phrases and including these in the key phrase lists within sports. Much more sports language would then be required to trigger a match within a log containing news reports. This technique can be applied to any content that regularly produces false hits, effectively reducing a category's sensitivity level automatically whenever appropriate.

[0021] This category will find matches on merger/acquisition related activity. Note that any resignation or news related language will reduce the sensitivity, requiring additional merger/acquisition language to trigger a match. The log is searched for the weighted regular expressions in the order defined by the category definition. Thus, with respect to the acquisition category, the regular expression "resume (attached/enclosed)" will be searched first and the remainder of the weighted regular expressions will be searched in the order shown. Once a category's threshold value is met or exceeded, in this case 4, the search is stopped and the log is saved.

Donahue, paragraphs 17, 19, and 21.

These portions of *Donahue* teach a criteria matching process that is based on weighted key phrases or regular expressions. *Donahue* teaches that using negative values facilitates avoidance of "false hits", or undesired matches. The Final Office Action alleges that a negative threshold value achieves the limitations of claims 1, 11, and 21. Appellants respectfully disagree since *Donahue* still does not teach or suggest that a transcript is desired if the destination user is not identified in the registry as being an approved destination user. In *Donahue*, a destination user's name or electronic address could be assigned a negative threshold reducing a category's

sensitivity level so that a log may not saved. But, *Donahue* does not teach or suggest that "the transcript is desired if the destination user is not identified in the registry as being an approved destination user," as recited in claims 1, 11, and 21. In other words, a registry contains a list of approved destination users for a source user account. If a destination user is not identified in the list of approved destination users, a transcript is desired so that questionable content is identified within the transcript from the unidentified destination user and provided to a designated monitor, such as a parent of a child with the source user account.

Additionally, in claims 1, 11 and 21, the storing of the transcript of the instant message in a storage device is <u>in response to determining that the transcript is desired</u>. The stored transcript is analyzed for occurrences of questionable content so that a designated monitor is made aware of the questionable content from instant messages between the instant messaging source user and an <u>unidentified</u> destination user. *Donahue* does not teach or suggest the features of claims 1, 11 and 21. To the contrary, *Donahue* teaches storing monitored data that matches predefined categories or user-defined keywords.

In view of the above, Applicants respectfully request withdrawal of the rejection of independent claims 1, 11 and 21 under 35 U.S.C § 103(a). Additionally, *Donahue* does not teach or suggest the features of dependent claims 7-8, 17-18, and 27-28 at least by virtue of their dependency on independent claims 1, 11, and 21, respectively. Accordingly, Applicants respectfully request withdrawal of the rejection of dependent claims 7-8, 17-18, and 27-28 under 35 U.S.C § 103(a).

B.   GROUND OF REJECTION 2 (Claims 2-6, 10, 12-16, 20, 22-26 and 30)

The Final Office Action rejects claims 2-6, 10, 12-16, 20, 22-26 and 30 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Donahue*, U.S. Patent Application Publication Number 2002/0004907 A1. This rejection is respectfully traversed.

B.1.   Claims 3-4, 10, 13-14, 20, 23-24 and 30

As discussed above, *Donahue* does not teach or suggest the features as recited in amended independent claims 1, 11 and 21. Therefore, *Donahue* does not teach or suggest the features of dependent claims 2-6, 10, 12-16, 20, 22-26 and 30 at least by virtue of their

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dependency on independent claims 1, 11 and 21, respectively. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 2-6, 10, 12-16, 20, 22-26 and 30 under 35 U.S.C. § 103(a).

B.2.   Claims 2, 12, and 22

In addition to the above, Appellants respectfully submit that claims 2, 12, and 22 are independently distinguishable from the *Donahue* reference. Claim 2 depends from claim 1; claim 12 depends from claim 11; and claim 22 depends from claim 21. Claims 2, 12, and 22 additionally recite that "the method is implemented in an instant message service provider of a distributed data processing system." See *Specification*, Figure 4A. *Donahue* does not teach or suggest this feature. *Donahue* only teaches that a chat session may be monitored.

B.3.   Claims 5, 15, and 25

Additionally, Appellants respectfully submit that claims 5, 15 and 25 are independently distinguishable from the *Donahue* reference. Claim 5 depends from claim 1; claim 15 depends from claim 11; and claim 25 depends from claim 21. Claims 5, 15 and 25 additionally recite "providing the at least one portion of the transcript to a designated monitor includes transmitting the at least one portion of the transcript as an attachment to an electronic mail message." *Donahue* does not mention this feature.

B.4.   Claims 6, 16, and 26

In addition, Appellants respectfully submit that claims 6, 16 and 26 are independently distinguishable from the *Donahue* reference. Claim 6 depends from claim 1; claim 16 depends from claim 11; and claim 26 depends from claim 21. *Donahue* does not teach or suggest that "the electronic mail message is transmitted in response to a request from the designated monitor," as recited in claims 6, 16 and 26. To the contrary, *Donahue* only teaches that an email message may contain multiple documents in the form of attachments and that these attachments may need to be converted to a format containing text and analyzed separately from the email.

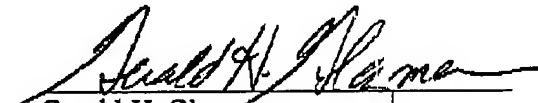## C.   GROUND OF REJECTION 3 (Claims 9, 19 and 29)

The Final Office Action rejects claims 9, 19 and 29 under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Donahue*, U.S. Patent Application Publication Number 2002/0004907 A1, in view of *Fertell et al.*, U.S. Patent Application Publication Number 2002/0032770, hereinafter referred to as *Fertell*. This rejection is respectfully traversed.

C.1.   Claims 9, 19 and 29

Since claims 9, 19 and 29 depend from independent claims 1, 11 and 21, respectively, the same distinctions between *Donahue* and the invention recited in claims 1, 11 and 21 apply to dependent claims 9, 19 and 29. In addition, *Fertell* does not provide for the deficiencies of *Donahue* with regard to independent claims 1, 11 and 21. *Fertell* is directed to a method of remotely monitoring an Internet session. *Fertell* is cited for allegedly disclosing an instant messaging account characteristic, which includes a date/time distribution of instant messages. *Fertell* does not teach or suggest "searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired, wherein the transcript is not desired if the destination user is identified in the registry as being an approved destination user, and wherein the transcript is desired if the destination user is not identified in the registry as being an approved destination user," as recited in claims 1, 11, and 21. Thus, any alleged combination of *Fertell* with *Donahue* still would not result in the invention recited in claims 1, 11 and 21 from which claims 9, 19 and 29 depend. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 9, 19 and 29 under 35 U.S.C. § 103(a).

In addition, with regard to claims 9, 19 and 29, *Donahue* and *Fertell*, taken individually or in combination, do not teach or suggest that "the at least one instant messaging account characteristic includes at least one of a ranked list of user identifications for most frequent incoming instant messages, a ranked list of user identifications for most frequent outbound target user identifications, a ranked list of most frequent recent incoming or outbound user identifications, a date/time distribution of instant messages that provides contact patterns for a particular user identification, and tracking of the contact patterns for the particular user identification." The present invention, on page 24, line 22 through page 25, line 3, describes that the timestamps of each transcript record may be examined to determine at what times and days of

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PAGE 22/32 * RCVD AT 11/18/2005 3:16:25 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/38 * DNIS:2738300 * CSID:972 385 7766 * DURATION (mm-ss):07-34

the week that an instant messaging user account is being contacted by or is contacting a particular user identification. The cited portions of *Fertell* only teach that transferred data may include a time-stamp when it is stored on a remote computer. Further, *Donahue* and *Fertell* do not teach or suggest any of the instant messaging account characteristics as recited in amended claims 9, 19 and 29. Thus, in addition to being dependent on their respective independent claims, claims 9, 19 and 29 are also distinguished over the *Donahue* and *Fertell* references based on the specific features recited therein.

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CLAIMS APPENDIX

The text of the claims involved in the appeal are:

1.   A method of monitoring use of an instant messaging source user account, comprising:

receiving an instant message from a destination user;

searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired, wherein the transcript is not desired if the destination user is identified in the registry as being an approved destination user, and wherein the transcript is desired if the destination user is not identified in the registry as being an approved destination user;

storing the transcript of the received instant message in a storage device in response to determining that the transcript is desired;

analyzing the transcript for occurrences of questionable content to thereby identify at least one portion of the transcript having questionable content; and

providing the at least one portion of the transcript to a designated monitor of the instant messaging source user account.

2.   The method of claim 1, wherein the method is implemented in an instant messaging service provider of a distributed data processing system.

3.   The method of claim 1, wherein the method is implemented in a network service provider of a distributed data processing system.

4.   The method of claim 1, wherein the method is implemented in a client device of a distributed data processing system.

5.   The method of claim 1, wherein providing the at least one portion of the transcript to a designated monitor includes transmitting the at least one portion of the transcript as an attachment to an electronic mail message.

6.   The method of claim 5, wherein the electronic mail message is transmitted in response to a request from the designated monitor.

7.   The method of claim 1, wherein providing the at least one portion of the transcript to a designated monitor includes generating a web page through which the at least one portion of the transcript is provided to the designated monitor.

8.   The method of claim 1, further comprising:

identifying at least one transcript characteristic of the transcript;

updating at least one instant messaging account characteristic based on the at least one transcript characteristic; and

providing the at least one instant messaging account characteristic to the designated monitor of the instant messaging source user account.

9.   The method of claim 8, wherein the at least one instant messaging account characteristic includes at least one of a ranked list of user identifications for most frequent incoming instant messages, a ranked list of user identifications for most frequent outbound target user identifications, a ranked list of most frequent recent incoming or outbound user identifications, a

date/time distribution of instant messages that provides contact patterns for a particular user identification, and tracking of the contact patterns for the particular user identification.

10.   The method of claim 1, wherein analyzing the transcript includes filtering for text including at least one of proper names, addresses and phone numbers.

11.   An apparatus for monitoring use of an instant messaging source user account, comprising:

means for receiving an instant message from a destination user;

means for searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired, wherein the transcript is not desired if the destination user is identified in the registry as being an approved destination user, and wherein the transcript is desired if the destination user is not identified in the registry as being an approved destination user;

means for storing the transcript of the received instant message in a storage device in response to determining that the transcript is desired;

means for analyzing the transcript for occurrences of questionable content to thereby identify at least one portion of the transcript having questionable content; and

means for providing the at least one portion of the transcript to a designated monitor of the instant messaging source user account.

12.   The apparatus of claim 11, wherein the apparatus is part of an instant messaging service provider of a distributed data processing system.

13.   The apparatus of claim 11, wherein the apparatus is part of a network service provider of a distributed data processing system.

14.   The apparatus of claim 11, wherein the apparatus is part of a client device of a distributed data processing system.

15.   The apparatus of claim 11, wherein the means for providing the at least one portion of the transcript to a designated monitor includes means for transmitting the at least one portion of the transcript as an attachment to an electronic mail message.

16.   The apparatus of claim 15, wherein the electronic mail message is transmitted in response to a request from the designated monitor.

17.   The apparatus of claim 11, wherein the means for providing the at least one portion of the transcript to a designated monitor includes means for generating a web page through which the at least one portion of the transcript is provided to the designated monitor.

18.   The apparatus of claim 11, further comprising:

means for identifying at least one transcript characteristic of the transcript;

means for updating at least one instant messaging account characteristic based on the at least one transcript characteristic; and

means for providing the at least one instant messaging account characteristic to the designated monitor of the instant messaging source user account.

19.   The apparatus of claim 18, wherein the at least one instant messaging account characteristic includes at least one of a ranked list of user identifications for most frequent incoming instant messages, a ranked list of user identifications for most frequent outbound target user identifications, a ranked list of most frequent recent incoming or outbound user identifications, a date/time distribution of instant messages that provides contact patterns for a particular user identification, and tracking of the contact patterns for the particular user identification.

20.   The apparatus of claim 11, wherein the means for analyzing the transcript includes means for filtering for text including at least one of proper names, addresses and phone numbers.

21.   A computer program product in a computer readable medium for monitoring use of an instant messaging source user account, comprising:

first instructions for receiving an instant message from a destination user;

second instructions for searching a registry that identifies a set of approved destination users to determine if a transcript of the received instant message is desired, wherein the transcript is not desired if the destination user is identified in the registry as being an approved destination user, and wherein the transcript is desired if the destination user is not identified in the registry as being an approved destination user;

third instructions for storing the transcript of the received instant message in a storage device in response to determining that the transcript is desired;

fourth instructions for analyzing the transcript for occurrences of questionable content to thereby identify at least one portion of the transcript having questionable content; and

fifth instructions for providing the at least one portion of the transcript to a designated monitor of the instant messaging source user account.

22.   The computer program product of claim 21, wherein the computer program product is implemented in association with instructions of an instant messaging service provider of a distributed data processing system.

23.   The computer program product of claim 21, wherein the computer program product is implemented in association with instructions of a network service provider of a distributed data processing system.

24.   The computer program product of claim 21, wherein the computer program product is implemented in association with instructions of a client device of a distributed data processing system.

25.   The computer program product of claim 21, wherein the fourth instructions for providing the at least one portion of the transcript to a designated monitor include instructions for transmitting the at least one portion of the transcript as an attachment to an electronic mail message.

26.   The computer program product of claim 25, wherein the electronic mail message is transmitted in response to a request from the designated monitor.

27.   The computer program product of claim 21, wherein the fourth instructions for providing the at least one portion of the transcript to a designated monitor include instructions for

generating a web page through which the at least one portion of the transcript is provided to the designated monitor.

28.   The computer program product of claim 21, further comprising:

sixth instructions for identifying at least one transcript characteristic of the transcript;

seventh instructions for updating at least one instant messaging account characteristic based on the at least one transcript characteristic; and

eighth instructions for providing the at least one instant messaging account characteristic to the designated monitor of the instant messaging source user account.

29.   The computer program product of claim 28, wherein the at least one instant messaging account characteristic includes at least one of a ranked list of user identifications for most frequent incoming instant messages, a ranked list of user identifications for most frequent outbound target user identifications, a ranked list of most frequent recent incoming or outbound user identifications, a date/time distribution of instant messages that provides contact patterns for a particular user identification, and tracking of the contact patterns for the particular user identification.

30.   The computer program product of claim 21, wherein the third instructions for analyzing the transcript include instructions for filtering for text including at least one of proper names, addresses and phone numbers.

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EVIDENCE APPENDIX

There is no evidence to be presented.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings.

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